

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re VEECO INSTRUMENTS, INC. : Case No.: 7:05-md-01695 (CM)  
SECURITIES LITIGATION :  
----- X  
----- X  
THIS DOCUMENT RELATES TO :  
ALL ACTIONS :  
----- X

**DECLARATION OF JEFFREY L. OSTERWISE IN FURTHER  
SUPPORT OF LEAD PLAINTIFF'S MOTION TO VACATE AND  
REVERSE THE DISCOVERY ORDER OF MAGISTRATE JUDGE  
GEORGE A. YANTHIS SIGNED JANUARY 24, 2007 PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 72**

Jeffrey L. Osterwise, hereby declares as follows:

I, Jeffrey L. Osterwise, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746  
that the following is true and correct:

1. I am an associate of the law firm of Berger & Montague, P.C., lead counsel for Lead Plaintiff in this litigation.
2. I submit this Declaration in further support of Lead Plaintiff's Motion to Vacate and Reverse the Discovery Order of Magistrate Judge George A. Yanthis Signed January 24, 2007 Pursuant to Federal Rule of Civil Procedure 72.
3. Attached hereto as Exhibits are true and correct copies of the following:

<u>Exhibit No.</u>	<u>Description</u>
A	Relevant portions of the Transcript of the Deposition of John Kiernan, dated February 27, 2007.
B	Relevant portions of the Rough Draft Transcript of the Deposition of John F. Rein, dated February 28, 2007.

Dated: March 1, 2007

  
\_\_\_\_\_  
Jeffrey L. Osterwise

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
CASE NO.: 05-MD-1695 (CM)

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In Re:  
VEECO INSTRUMENTS, INC.,  
SECURITIES LITIGATION

-----x

VIDEOTAPED DEPOSITION of JOHN KIERNAN,  
a witness called by counsel for Plaintiffs, taken  
pursuant to the Federal Rules of Civil Procedure  
before Eileen Mulvenna, CSR/RMR and Notary Public  
within and for the State of New York, taken at  
the office of Milberg Weiss & Bershad, One Penn  
Plaza, New York, New York on February 27th, 2007,  
commencing at 10:17 a.m.

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1 John Kiernan

2 Q. Where was your office at the time, 15:17:02  
3 this late 2004, early 2005 time period? Not in 15:17:04  
4 Somerset, was it? 15:17:10

5 A. No, my office is based in the Veeco 15:17:12  
6 corporate office in Woodbury. 15:17:16

7 Q. And were there occasions on which 15:17:20  
8 Jefferson Wells people came to Woodbury? 15:17:27

9 A. Yes, they did. 15:17:31

10 Q. And what did the Jefferson Wells 15:17:32  
11 people do when they came to Woodbury? 15:17:34

12 A. Principally two items, I recall. 15:17:42  
13 The first item was when they reviewed the work 15:17:46  
14 prepared by management with respect to the 15:17:50  
15 revenue adjustments. All of those accounting 15:17:52  
16 records are kept at the Woodbury facility. When 15:17:54  
17 they reviewed the work, they reviewed that at 15:17:59  
18 Woodbury. 15:18:02

19 And second, any presentations or 15:18:04  
20 reports that they would have given to the audit 15:18:09  
21 committee, they may have done in person or by 15:18:13  
22 phone in Woodbury. I'm not sure. 15:18:17

23 Q. Did the audit committee meet at 15:18:19  
24 Woodbury? 15:18:21

25 A. The audit committee did meet in 15:18:23

1 John Kiernan  
2 Woodbury. I don't know, with respect to 15:18:25  
3 specifically meetings during this time period, if 15:18:29  
4 they were telephonic meetings or there were 15:18:34  
5 meetings in Woodbury. I don't recall. 15:18:36  
6 Q. I see. 15:18:47  
7 What was the cost of what has been 15:18:58  
8 described in Veeco documents as the investigation 15:19:02  
9 that included -- that -- in which Jefferson Wells 15:19:07  
10 did, in part which you've described and I assume 15:19:10  
11 some other things -- 15:19:14  
12 MR. HERFORT: How much money was 15:19:15  
13 Jefferson Wells paid? 15:19:16  
14 MS. BRODERICK: Oh, it wasn't only 15:19:18  
15 Jefferson Wells that got paid. 15:19:19  
16 Q. Isn't that right? 15:19:20  
17 MR. HERFORT: What is the -- how is 15:19:24  
18 this likely to lead to discoverable 15:19:25  
19 evidence? 15:19:27  
20 Q. You can answer the question. 15:19:28  
21 MR. HERFORT: Wait a minute. Wait. 15:19:29  
22 You've got to put some parameters on 15:19:31  
23 your question. What costs are you talking 15:19:33  
24 about? 15:19:34  
25 Q. There was an investigation; right? 15:19:38

John Kiernan

1 And Jefferson Wells got paid and at least one 15:19:39  
2 other entity got paid. 15:19:43

4 MR. HERFORT: Who is that? 15:19:45

5 MS. BRODERICK: You know perfectly 15:19:46  
6 well. 15:19:47

7 Q. What was the cost of the 15:19:49  
8 investigation? 15:19:50

9 MS. BRODERICK: Let's not waste 15:19:51  
10 time. 15:19:52

11 MR. HERFORT: I'm going to instruct 15:19:52  
12 him not to answer. 15:19:52

13 MS. BRODERICK: You are? 15:19:54

14 MR. HERFORT: Yes. 15:19:55

15 MS. BRODERICK: You know you're not 15:19:55  
16 supposed to do that. 15:19:56

17 MR. HERFORT: I think that gets into 15:19:57  
18 the work product area. 15:19:57

19 MS. BRODERICK: The cost of an 15:19:58  
20 investigation -- 15:20:00

21 MR. HERFORT: The checks that they 15:20:00  
22 wrote to Jefferson Wells and Kaye Scholer 15:20:01  
23 for work product -- 15:20:04

24 MS. BRODERICK: For one thing, for 15:20:05  
25 God's -- 15:20:06

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1 John Kiernan

2 MR. HERFORT: Carole, keep your 15:20:07

3 mouth shut and let me listen to him. Okay? 15:20:08

4 You've got to cool it. I want to -- let's 15:20:11

5 do this professionally. All right? 15:20:13

6 MS. BRODERICK: You should start. 15:20:15

7 MR. HERFORT: You start too. 15:20:16

8 Let me talk to -- Mr. Wallin wants 15:20:17

9 to talk to me. Let me talk to him. Don't 15:20:18

10 start yelling. 15:20:21

11 (Discussion off the record.) 15:20:21

12 (Counsel leave the room.) 15:20:24

13 THE VIDEOGRAPHER: 3:21 p.m. We're 15:20:40

14 going off the record. 15:20:41

15 (Recess from the record.) 15:20:43

16 THE VIDEOGRAPHER: Time is 3:30 p.m. 15:30:19

17 We're back on the record. 15:30:21

18 MR. HERFORT: Miss Broderick has 15:30:23

19 some questions involving numbers, and let's 15:30:24

20 proceed and have them -- 15:30:26

21 MS. BRODERICK: Would you read the 15:30:28

22 question back and maybe this time he'll 15:30:28

23 answer it. 15:30:31

24 MR. HERFORT: -- have them asked. 15:30:32

25 (Record read.) 15:30:42

John Kiernan

2 A. My recollection was in the range of 15:30:42  
3 about \$800,000. 15:30:46

4 Q. And is that cost approximately what 15:31:00  
5 Veeco expected when the investigation was 15:31:01  
6 started? 15:31:05

7 A. I don't recall what our initial 15:31:09  
8 estimate was. 15:31:11

9 O. Well, let's come at it another way. 15:31:14

10 Did the cost of the investigation 15:31:16  
11 come as a shock to you? And by "you," I mean 15:31:18  
12 Veeco and not you personally, Mr. Kiernan. 15:31:20

13 A. No, I don't believe so. 15:31:25

14 Q. And what was Veeco getting for the 15:31:29  
15 \$800,000? 15:31:30

16 MR. HERFORT: Let's just -- haven't 15:31:34  
17 you really covered at some length the 15:31:39  
18 actual work that was done? 15:31:41

19 MS. BRODERICK: Let me decide. 15:31:43

20 MR. HERFORT: You do have some 15:31:45  
21 rights, that's true. 15:31:46

22 MS. BRODERICK: Yes, I do. You 15:31:47  
23 know, what amendment was it that gave us 15:31:48  
24 the vote? 15:31:50

25 MR. HERFORT: It's not what we're 15:31:51

John Kiernan

1 talking about. 15:31:52

2 MS. BRODERICK: I know you'd rather 15:31:54

3 appeal it, but it's not for you to do. 15:31:55

4 MR. HERFORT: I really wouldn't. It 15:31:57

5 makes for an interesting political system 15:31:58

6 to have characters like you voting. 15:32:01

7 MS. BRODERICK: Careful or you'll 15:32:03

8 get Hillary Clinton. 15:32:04

9 Now, let him answer the question. 15:32:07

10 MS. HIRSH: I'm sorry. 15:32:09

11 MR. HERFORT: Maybe I like -- 15:32:11

12 MS. HIRSH: Right after reading the 15:32:13

13 headline about the Dow falling of 500 15:32:14

14 points. 15:32:19

15 MS. BRODERICK: Oh, really? 500? 15:32:19

16 MS. HIRSH: Something to do with 15:32:20

17 China. 15:32:21

18 MS. BRODERICK: Let's let him answer 15:32:23

19 the question. You know you're not allowed 15:32:24

20 to instruct him not to answer except on the 15:32:26

21 grounds of privilege. 15:32:28

22 MR. HERFORT: You might be getting 15:32:29

23 near. 15:32:30

24 MS. BRODERICK: Well, near is not 15:32:30

1	John Kiernan	
2	good enough.	15:32:31
3	MR. HERFORT: You were interested,	15:32:32
4	having gone over the basic work that	15:32:32
5	they've done for the last hour and a half.	15:32:35
6	You want him to repeat it again?	15:32:36
7	MS. BRODERICK: No. I asked him a	15:32:39
8	question. If you're going to instruct him	15:32:40
9	not to answer, at your peril, then do so;	15:32:41
10	if you're not, then --	15:32:44
11	MR. HERFORT: If you can answer the	15:32:44
12	question without getting into the	15:32:45
13	impressions and conclusions of the people	15:32:46
14	who did the work for you, answer it.	15:32:47
15	A. My understanding is that of the	15:32:51
16	\$800,000, that was principally paid to three	15:32:54
17	firms. That it was paid to Ernst & Young for	15:33:02
18	additional audit work that they performed. It	15:33:07
19	was paid to Kaye Scholer to lead the	15:33:12
20	investigation. And it was paid to Jefferson	15:33:15
21	Wells for the work they performed.	15:33:18
22	Q. And is it -- what was your	15:33:21
23	understanding about -- I understand who you paid	15:33:26
24	it to -- about what you got for your \$800,000?	15:33:30
25	It's a lot of money.	15:33:35

1	John Kiernan	
2	MR. HERFORT: Read the question back	15:33:37
3	again, please.	15:33:38
4	(Record read.)	15:33:39
5	MR. HERFORT: I'll object as to	15:33:55
6	form.	15:33:55
7	I think this has been gone over and	15:33:56
8	over and over again for the last two hours.	15:34:00
9	MS. BRODERICK: Cry.	15:34:03
10	A. My recollection is that each one of	15:34:07
11	those three firms billed to Veeco on an hourly	15:34:08
12	basis for the work that they performed.	15:34:13
13	Q. Let me put it a different way.	15:34:16
14	What purpose -- what benefit did you	15:34:20
15	derive for the \$800,000 that you paid to these	15:34:25
16	people?	15:34:30
17	A. The audit committee engaged Kaye	15:34:36
18	Scholer to perform an investigation under their	15:34:40
19	direction, and they're reporting directly into	15:34:42
20	the audit committee. I'm not privileged to what	15:34:47
21	they performed in that regard.	15:34:50
22	Work performed by Ernst & Young	15:34:56
23	included additional audit procedures to review	15:34:59
24	the adjustments and the account analysis that was	15:35:06
25	performed that was outside of the original scope	15:35:08

John Kiernan

1 of their intended audit work, and that Ernst & 15:35:10  
2 Young did these additional procedures in order to 15:35:14  
3 be able to render an opinion on the financial 15:35:17  
4 statements, which they ended up rendering their 15:35:20  
5 opinion on the financial statements. 15:35:24  
6  
7 Jefferson Wells reviewed the work 15:35:28  
8 that was performed by management and also did 15:35:32  
9 forensic work. 15:35:35  
10  
11 Q. And what benefit did the company 15:35:37  
12 derive from that? 15:35:39  
13  
14 A. I think that was -- the work that 15:35:52  
15 was performed by Jefferson Wells enabled Ernst & 15:35:54  
16 Young to be able to render their opinion on 15:36:02  
17 Veeco's financial statements, and that was a 15:36:09  
18 requirement. 15:36:13  
19  
20 Q. Did the work done by Jefferson Wells 15:36:16  
21 also enable Ernst & Young to render their opinion 15:36:19  
22 on Veeco's internal controls? 15:36:24  
23  
24 A. I believe they considered the work 15:36:36  
25 performed, but I don't know what -- the exact 15:36:37  
1 reliance that they may have attributed to the 15:36:41  
2 work performed by Jefferson Wells. 15:36:45  
3  
4 Q. Okay. Did there come a time in the 15:36:47  
5 third quarter of 2004 that you, Mr. Kiernan, 15:37:44

## **EXHIBIT B**

ROUGH ASCII VEECO-REIN 2-28-07

1

1 UNPROOFREAD/UNCERTIFIED ROUGH DRAFT ONLY

2 Reporter's Name: EILEEN MULVENNA, CSR/RMR

3 REALTIME/INTERACTIVE ROUGH DRAFT TRANSCRIPT  
4 AND/OR UNCERTIFIED REALTIME ASCII DISCLAIMER

5 **IMPORTANT NOTICE:**

6 **- AGREEMENT OF PARTIES -**

7 **PROCEEDING BEYOND THIS PAGE CONSTITUTES  
8 ACCEPTANCE OF AND AGREEMENT WITH THE FOLLOWING  
9 TERMS AND CONDITIONS**

10 we, the party working with realtime and rough  
11 draft transcripts and/or ASCII disks, understand  
12 that if we choose to use the realtime rough draft  
13 screen, the rough printout, or the unedited ASCII  
14 disk, that we are doing so with the understanding  
15 that all rough drafts are uncertified copies  
16 and...

17 WE AGREE THEY WILL BE BILLED TO AND PAID FOR BY  
18 US

19 We further agree not to comment in the record on,  
20 share, give, copy, scan, fax or in any way  
21 distribute this realtime rough draft or ASCII in  
22 any form (written or computerized) to any party.  
23 However, our own experts, co-counsel, and staff  
24 may have limited internal use of same with the  
25 understanding that we agree to destroy our  
realtime rough drafts and/or any computerized  
form, if any, and replace it with the final  
transcript/ASCII disk upon its completion.

REPORTER'S NOTE:

Since this deposition has been recorded by me in  
realtime and is in rough draft form, please be  
aware that there may be discrepancies regarding  
page and line number when comparing the realtime  
screen, the rough draft/uncertified transcript,  
rough draft/uncertified ASCII disk, and the final  
transcript/ASCII disk.

2

1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY

2 Also please be aware that the realtime screen and  
3 the uncertified rough draft transcript/ASCII disk  
4 may contain untranslated steno, reporter's notes  
as parentheticals, misspelled proper names,  
incorrect or missing Q/A symbols or punctuation,  
and/or nonsensical English word combinations.

5 ROUGH ASCII VEECO-REIN 2-28-07  
6 All such entries will be correct on the final,  
certified transcript/ASCII disk.  
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1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY  
2 THE VIDEOGRAPHER: Good morning. 09:27:10  
3 We're on the record. Today's date is 10:13:09  
4 February 28, 2007. The time is 10:15 a.m. 10:13:11  
5 10:13:15  
6 This is the videotape deposition of 10:13:16  
7 John F. Rein in the case of In Re: Veeco 10:13:19  
8 Instruments, Inc., Securities Litigation. 10:13:25  
9 Case No. 05-MD-1695. This case is part of 10:13:27  
10 the United States District Court for the 10:13:33  
Page 2

25 ROUGH ASCII VEECO-REIN 2-28-07  
 the record. The time is 5:01 p.m. 16:58:18  
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1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY  
 2 BY MS. BRODERICK: 16:58:22  
 3 Q. How much did Veeco spend on the 16:58:26  
 4 investigation that you described in the affidavit 16:58:30  
 5 that you swore to that was filed in this action 16:58:43  
 6 in the federal District Court? 16:58:48  
 7 MR. SERIO: I'm sorry could I have 16:58:56  
 8 that read back, please. 16:58:57  
 9 (Record read.) 16:59:07  
 10 MR. SERIO: Objection to form. You 16:59:08  
 11 mean outside counsel fees? 16:59:09  
 12 MS. BRODERICK: The whole thing. 16:59:11  
 13 A. I think there was a disclosure in 16:59:16  
 14 the 10-K that enumerated a number like eight or 16:59:17  
 15 900,000 but I don't specifically recall. 16:59:23  
 16 Q. And wasn't the product that 16:59:36  
 17 investigation needed for you to obtain Ernst & 16:59:43  
 18 Young's opinions on Veeco's financial statements 16:59:51  
 19 and its internal controls? 16:59:57  
 20 MR. SERIO: Objection to the form. 17:00:00  
 21 A. I'm sorry, what investigation are 17:00:02  
 22 you referring to? 17:00:04  
 23 Q. The financial statement -- the 17:00:06  
 24 investigation you just testified about, the cost 17:00:08  
 25 of which you said was disclosed in Veeco's public 17:00:10  
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1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY  
 2 document. 17:00:15  
 3 A. The audit committee selected Kaye 17:00:16  
 4 Scholer and Jefferson Wells to assist in 17:00:21  
 Page 190

## ROUGH ASCII VEECO-REIN 2-28-07

5 litigation, anticipation of litigation 17:00:28  
 6 preparation to evaluate and to give counsel and 17:00:32  
 7 guidance to the company. In addition to 17:00:36  
 8 performing some analysis and forensic work in 17:00:39  
 9 regard -- in regard to ensuring that the accounts 17:00:46  
 10 were properly stated and the financial statements 17:00:52  
 11 were properly stated. 17:00:57

12 MS. BRODERICK: Could you read the 17:00:59  
 13 question back. 17:00:59

14 (Record read.). 17:01:00

15 MR. SERIO: Objection to form. 17:01:18

16 MS. BRODERICK: It's product of the 17:01:20  
 17 investigation. 17:01:21

18 THE REPORTER: (Nods head in the 17:01:24  
 19 affirmative.) 17:01:24

20 MR. SERIO: Could you hear that? I 17:01:26  
 21 couldn't hear it when you were reading it 17:01:27  
 22 back. 17:01:29

23 (Discussion off the record.) 17:01:47

24 (Record read.) 17:01:48

25 MR. SERIO: Objection to form. 17:01:57

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1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY  
 2 Q. You can answer the question? 17:02:13  
 3 A. I think I thought I did answer the 17:02:15  
 4 question, but a portion of that investigative 17:02:17  
 5 activity was used to assist us in -- us being 17:02:23  
 6 Veeco financial management in creating and 17:02:29  
 7 correcting -- creating the required entries and 17:02:33  
 8 adjustments and developing financial statements 17:02:39  
 9 on a correct basis and so a portion of that 17:02:46

ROUGH ASCII VEECO-REIN 2-28-07		
10	activity was in that -- in assistance in that	17:02:52
11	regard. And that was required before Ernst &	17:02:56
12	Young could audit our and given an opinion on our	17:02:59
13	December 31, 2004, financial statements.	17:03:03
14	Q. So it was necessary for Ernst &	17:03:06
15	Young's opinion; right?	17:03:08
16	MR. SERIO: Objection to the form.	17:03:10
17	A. A portion of the activities were	17:03:11
18	necessary.	17:03:13
19	Q. That's the audit opinion; is that	17:03:14
20	correct?	17:03:16
21	MR. SERIO: Objection to the form.	17:03:16
22	Q. Meaning the opinion on Ernst &	17:03:18
23	Young -- on Veeco's financial statements; right?	17:03:20
24	A. We --	17:03:27
25	(Telephone interruption.)	17:03:29

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1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY

2 MS. BRODERICK: Good grieve. I 17:03:32

3 thought it was his stomach. 17:03:34

4 A. I'd like to just clarify what the 17:03:41

5 question -- 17:03:43

6 Q. okay. You described financially -- 17:03:44

7 financial statement activity that was being 17:03:49

8 performed by Jefferson Wells; isn't that correct? 17:03:51

9 A. Well, I described financial activity 17:03:54

10 was being performed by Veeco financial management 17:03:56

11 and there was some assistance based on some of 17:04:01

12 the work that Jefferson Wells did. 17:04:03

13 Q. Yes. And then you testified, did 17:04:06

14 you not that had that activity was necessary for 17:04:08

15 Ernst & Young to issue its opinion; is that 17:04:13

## ROUGH ASCII VEECO-REIN 2-28-07

16	correct?	17:04:15
17	MR. SERIO: Objection to the form.	17:04:16
18	(Telephone interruption.)	17:04:17
19	MS. BRODERICK: Turn it off.	17:04:20
20	MR. SERIO: Sorry.	17:04:24
21	MS. BRODERICK: How many do you	17:04:25
22	have?	17:04:26
23	(Telephone interruption.)	17:04:30
24	(Discussion off the record.)	17:04:40
25	Q. Okay?	17:04:48

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1	UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY	
2	A. It was necessary for Veeco	17:04:48
3	management to get their financial accounts and	17:04:50
4	financial statements correct before Ernst & Young	17:04:54
5	would certify to our statements or we could ask	17:04:56
6	them to review and audit the underlying financial	17:05:01
7	statements. And part of the Jefferson Wells'	17:05:05
8	activity was utilized to assist us in verifying	17:05:09
9	that the accounts were correct.	17:05:15
10	Q. So part of the Jefferson Wells'	17:05:16
11	activity was an activity which was engaged in for	17:05:18
12	the purpose of correcting records which was	17:05:28
13	necessary to do to get Ernst & Young to certify	17:05:31
14	Veeco's financial statements; is that correct?	17:05:37
15	MR. SERIO: Objection to the form.	17:05:40
16	A. It was -- we utilized Jefferson	17:05:43
17	Wells' activity to verify that what management	17:05:47
18	had come up with, which is what Ernst & Young was	17:05:51
19	looking at, was accurate.	17:05:55
20	Q. Okay. So part of what Jefferson	17:05:58

21 ROUGH ASCII VEECO-REIN 2-28-07  
 21 wells was doing was used to get Ernst & Young to 17:06:00  
 22 issue an opinion on Veeco's financial statements; 17:06:07  
 23 isn't that right? 17:06:10  
 24 MR. SERIO: Objection to the form. 17:06:11  
 25 Asked and answered. 17:06:12

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1 UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY  
 2 A. I think I did answer it. 17:06:13  
 3 Q. It's yes or no; is that correct? 17:06:15  
 4 MR. SERIO: Objection to the form. 17:06:17  
 5 A. I don't think it is. I don't think 17:06:18  
 6 it is yes or no. I think I gave my explanation. 17:06:19  
 7 Q. What was the Jefferson wells' work 17:06:24  
 8 on Veeco's fixing up TurboDisc's records used 17:06:28  
 9 for? 17:06:35  
 10 MR. SERIO: Objection to the form. 17:06:37  
 11 A. I described that veeco management -- 17:06:38  
 12 financial management did the analysis and the 17:06:42  
 13 correction of the errors that were uncovered. 17:06:49  
 14 And that a portion of what Jefferson wells' work 17:06:52  
 15 was utilized to verify that the amounts and 17:06:58  
 16 correction of errors that Veeco management, 17:07:04  
 17 financial management had established were in fact 17:07:07  
 18 verified by some of the work that Jefferson Wells 17:07:12  
 19 did. 17:07:14  
 20 Q. And is it also correct that Veeco 17:07:16  
 21 gave Ernst & Young Jefferson wells' work to show 17:07:19  
 22 Ernst & Young that Jefferson Wells agreed with 17:07:27  
 23 Veeco management? 17:07:31  
 24 MR. SERIO: Objection to the form. 17:07:32  
 25 A. 17:07:37

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## ROUGH ASCII VEECO-REIN 2-28-07

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2 THE WITNESS: Repeat that, please. 17:07:37

3 I just like to make sure I understand every 17:07:38

4 word in that question. 17:07:41

5 (Record read.). Select 17:07:56

6 A. Selected schedules that management 17:08:06

7 used in verifying its correction of the errors in 17:08:07

8 the accounts may have been given to Ernst & Young 17:08:15

9 and some of those work papers may have come from 17:08:18

10 Jefferson Wells. 17:08:21

11 Q. Wait a minute. Did Veeco give Ernst 17:08:24

12 & Young any documents that showed that Jefferson 17:08:31

13 wells agreed with Veeco management about Veeco 17:08:34

14 management's correction of TurboDisc accounts? 17:08:40

15 MR. SERIO: Objection to form. 17:08:46

16 A. I know that there was a report that 17:08:47

17 was prepared for the audit committee and for Kaye 17:08:48

18 Scholer and I believe that that report was shared 17:08:52

19 with Ernst & Young. I don't know what purpose 17:08:56

20 that Ernst & Young found with that report. I 17:08:59

21 also know that were certain analysis there were 17:09:03

22 done by Jefferson Wells personnel that were 17:09:06

23 utilized by Veeco management and may have been 17:09:10

24 reviewed by Ernst & Young in establishing that 17:09:12

25 the accounts were proper and the financial 17:09:14

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2 statements were proper. 17:09:16

3 Q. And those analyses said we, 17:09:18

4 Jefferson Wells, agree with Veeco's management; 17:09:21

5 is that correct? 17:09:23

6	ROUGH ASCII VEECO-REIN 2-28-07	
	MR. SERIO: Objection to the form.	17:09:24
7	I don't -- I think I would instruct him not	17:09:26
8	to answer as to the substance of what the	17:09:29
9	Jefferson Wells report said. So you don't	17:09:32
10	immediate to answer.	17:09:35
11	Q. And you refuse to answer?	17:09:38
12	A. On advice of counsel, I --	17:09:40
13	Q. Okay. Are you prepared to tell me	17:09:42
14	whether Jefferson Wells' work played any part in	17:09:45
15	obtaining Ernst & Young's audit opinion on	17:09:53
16	Veeco's financial statements?	17:09:58
17	A. I think --	17:09:59
18	MR. SERIO: Objection to the form.	17:10:00
19	A. I think I previously described that.	17:10:01
20	Q. No, this is a yes or no. So far as	17:10:04
21	you're aware, did Jefferson Wells' work play any	17:10:06
22	part in obtaining Ernst & Young's audit opinion	17:10:09
23	on Veeco's financial statements?	17:10:14
24	MR. SERIO: Objection to the form.	17:10:15
25	A. Jefferson Wells performed certain	17:10:17

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1	UNPROOFREAD ROUGH DRAFT/WORKING COPY ONLY	
2	analysis and assisted Veeco management in	17:10:20
3	preparing the corrected errors and financial	17:10:23
4	statements and that information was presented to	17:10:26
5	Ernst & Young prior to them issuing their	17:10:31
6	opinion.	17:10:32
7	Q. Okay. Now, Ernst & Young issued	17:10:34
8	another opinion in connection with Veeco's 2004	17:10:39
9	10-K, didn't they?	17:10:45
10	MR. SERIO: Objection to the form.	17:10:47
11	A. Could you tell me what you're	17:10:48